

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Winston D. Fields,)	C/A No. 4:09-2645-JFA-TER
)	
Petitioner,)	
)	
vs.)	ORDER
)	
Lavern Cohen, Warden, RCI,)	
)	
Respondent.)	
_____)	

The *pro se* petitioner, Winston D. Fields, brings this action pursuant to 28 U.S.C. § 2254.

The Magistrate Judge assigned to this action¹ has prepared a Report and Recommendation wherein he suggests that this action should be dismissed for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. In addition, the Magistrate Judge has considered the Fourth Circuit's four-prong test² in determining his recommendation that the action should be dismissed. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

² See *Davis v. Williams*, 588 F.2d 69, (4th Cir. 1978); *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982).

a recitation.

The petitioner was advised of his right to file objections to the Report and Recommendation, which was entered on the docket on February 22, 2010. However, he did not file any objections to the Report within the time limits prescribed. Additionally, the petitioner did not respond to the court's order of December 15, 2009, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), advising him of the importance of responding to the respondent's motion for summary judgment.

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation proper and incorporated herein by reference. Accordingly, this action is dismissed with prejudice for failure to prosecute under Rule 41(b).

IT IS SO ORDERED.

March 24, 2010
Columbia, South Carolina

A handwritten signature in black ink that reads "Joseph F. Anderson, Jr." The signature is written in a cursive, flowing style.

Joseph F. Anderson, Jr.
United States District Judge